IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8738 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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GUJARAT STATE ROAD TRANSPORT CORPN. - Petitioner(s)
Versus
PRAHLADBHAI G. PRAJAPATI - Respondent(s)

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Appearance :
MR SAURABH J MEHTA for Petitioner No(s).: 1.

MR GK RATHOD for Respondent No(s).: 1.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 17/08/2005

ORAL JUDGMENT

1. This petition is directed against the award passed by the Industrial Tribunal, Ahmedabad dated 9.2.2000 in Reference (I.T.) No.589 of 1991 whereby the petitioner Corporation was directed to appoint the respondent and pay salary and other consequential benefits to the respondent from 1.5.1991.

2. The short facts of the case are that the respondent was working with the petitioner Corporation as Helper. He was promoted on 28.4.1988 in the cadre of Leading Hand Coach Machinist. Thereafter he was promoted to the post of Junior

Foreman and then he was working as Coach Machinist in Art C. In pursuance of an advertisement for the post of Leading Hand Coach Machinist the petitioner had applied and he had passed the test conducted by the petitioner Corporation. After interview the respondent was selected and his number was at serial no.1 in the waiting list. However, the respondent was not appointed before 4.5.1991 on which date the list was to expire and from 4.5.1991 the said list was treated as cancelled. Since the respondent was not appointed, he filed Reference which was numbered as Reference (I.T.) No.589 of 1991. Thereafter the Industrial Tribunal passed the aforesaid award.

3. Learned counsel for the petitioner submitted that there are total 11 trades in the Leading Hand Cadre and the respondent was selected in Leading Hand Coach Mechinist. The Corporation appointed 5 persons in Leading Hand cadre on 19.6.1999 in different grades but no person has been appointed in the Leading Hand Coach Machinist grade in which the respondent was selected. He submitted that the waiting list has remained in operation for two years and in that two years the Corporation has not operated the said list so far as the Leading Coach Machinist is concerned. He submitted that the Labour Court has proceeded on the basis that the respondent was in fact appointed on the said post. He further submitted that there was no master-servant relationship between the petitioner and the respondent.

4. Mr.M.H. Rathod for the respondent submitted that the name of respondent was in the waiting list at serial no.1 and therefore the Labour Court has rightly passed the award in question.

5. As a result of hearing and perusal of the record, it is found that though the name of the respondent was in the waiting list, he was never appointed by the petitioner. Subsequently the said waiting list came to be expired. When there is no appointment, there cannot be any relationship of master and servant between the petitioner and the respondent. Therefore the Labour Court has proceeded on the wrong footing that once the name is listed in the waiting list, the person acquires a right on the post in question, which is not so. Therefore, the Labour Court has committed an error in passing the award in question.

6. In the premises aforesaid, the impugned award is quashed and set aside. Rule is made absolute accordingly with no order as to costs.

[K.S. JHAVERI, J.]

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